



U.S. Department of Energy
Energy Efficiency and Renewable Energy

The PC RFP / Negotiations / Contract

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Discussion Topics

- RFP
 - State Agency Program
 - Statutory
- Negotiation
 - ESCO perspective
 - Owner concerns and considerations
 - “Meeting of the minds” / Expectations
- Contract
 - Requirements



RFP

- State Agency Program
 - State RFP No. SRM-2002-104
 - Complete, no additional per project RFQ / RFP required
 - All public bodies can utilize
- Performance Contracting Enabling Legislation
 - Va. Code §§11-34.1 through 11-34.4



RFP Requirements

- Competitive negotiation (in accord with Va. Code §2.2-4300)
 - Public notice at least 20 days prior to RFP response due dates – (under PC program, invitations to three of Commonwealth pre-qualified ESCOs)
 - Short list and evaluate for “best value”



Negotiation Objectives

- Set the parties' expectations
- Risks and responsibilities
 - Identify
 - Quantify
 - Allocate



Negotiation Areas

- Detailed Audit (Memorandum of Understanding, Letter of Commitment, Audit Agreement)
- Construction Related
- Guarantee Issues



Negotiation: Detailed Audit Considerations

- Cost
- Commitment
- Quality
- Deliverables
- Time



Negotiation: Construction Related Considerations

- Hazardous Materials
- Mold
- Indemnification
- Cost – assumption of risk
- Schedule – impact of delays



Negotiation: Guarantee Considerations

- Energy savings - units vs. \$'s
- Measurement and verification
- Agreed parameters of facility operation
- Baseline adjustment triggers
- Maintenance
- Energy savings guarantee security



VA PC–Contract Requirements (Notable Points)

- Energy and operational savings must exceed amortized cost of ECMs
- Existing buildings only
- Bond for energy savings



Contract Considerations

- Owner
 - Payment and performance bonds
 - ESCO (current) ability to perform
 - Guarantee non-assignment / sale
 - Guarantee security / financial strength / longevity of ESCO



Contract Considerations

- ESCO
 - Proper procurement / competitive process followed
 - Scope of work (ECMs) and energy savings within statutory framework
 - Financing available / in-place
 - Project risks within commercially reasonable parameters
 - Authorized party



Conclusion

- Understand the risks and benefits of the project
- Address any / all areas of concern or responsibility
- Do the right thing – integrity is crucial to a long term relationship



Questions and Comments



Thank you!